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ABSTRACT

In 1970, the gross national product for the United States was over $974 billion; for Mexico, it was $33 billion. The U.S. per capita national income was approximately $4,300, while Mexico's was slightly above $ 00. Living as neighbors with the reality of these vast differences has led to the implementation of various policy measures by both nations. Scant attention has been given to the significance of border practices and policies of each nation for its "own" people. The U.S. border policies and practices have affected a significant proportion of the Chicano population. Chicanos have long provided the mainstay of the unskilled and semiskilled labor force in the Southwest's rural and urban sectors. Yet in 1970, the number of Chicano family members classified as officially living in poverty exceeded 1.2 million. Among the policies and practices having serious detrimental impact on the Chicano population have been the bracero program, the policy governing illegal entrants and commuters (those living in Mexico but frequently seeking employment in the U.S.), and the "twin plants" program (an arrangement by which laborers in Mexico assemble items for U.S.-owned industries). If the present border situation continues, the economic improvement for Chicanos will continue to be "grudgingly" slow. An alternative would be to impose and enforce strong restrictions upon illegal entrants, commuting workers, and employers who hire illegal workers. A tight border policy is an essential component of any serious public policy strategy to improve Chicano economic welfare. (NQ)

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The Mexico-United States Border: Public Policy and Chicano Economic Welfare

ED147054

Vernon M. Briggs, Jr.

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STUDIES IN HUMAN RESOURCE DEVELOPMENT No. 2

STUDIES IN HUMAN RESOURCE DEVELOPMENT

This volume is the second in a series of studies in human resource development published jointly by the Bureau of Business Research and the Center for the Study of Human Resources of The University of Texas at Austin. This series will be devoted to publishing findings of policy-oriented research projects related to human resource development, especially concerning:

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2. manpower programs, which include labor market adjustment procedures, job information and projections, the movement of workers between areas, skill training, pre-employment training, and public employment;
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Although some of the publications in the series will involve comparative analysis with situations in other countries and in other sections of the United States, the chief focus of the series will be the South and Southwest.

The Mexico-United States Border: Public Policy and Chicano Economic Welfare

Vernon M. Briggs, Jr.

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PUBLISHER'S FOREWORD

In this study Vernon M. Briggs, Jr., shows how the economically depressed status of the low-income and particularly the Chicano population on the U.S. side of the Mexican border results in part from present U.S. border labor and immigration policies. Dr. Briggs recommends that the United States tighten its border policies and discourage the "twin plants" arrangement by which laborers in Mexico assemble items for U.S.-owned industries. He suggests that if financial assistance to Mexico is necessary it should be in the form of direct cash grants to help Mexico develop its own economy.

Dr. Briggs, professor of economics at The University of Texas at Austin, is the author of numerous studies in labor economics, including *Chicanos and Rural Poverty* (Baltimore: Johns Hopkins Press, 1973) and *The Chicano Worker*, to be published in fall 1974 by the Johns Hopkins Press.

The Mexico-United States Border is No. 2 in the Studies in Human Resource Development series published jointly by the Center for the Study of Human Resources and the Bureau of Business Research of The University of Texas at Austin. The manuscript was edited and prepared for publication by Margaret Woodruff and Kathleen Luft. The cover was designed by William Hezlep. Compositors were Jennifer Brewster, Sandy Kessler, and Clintsy Sturgill. Offset printing was done by Robert Dorsett and Daniel P. Rosas, with the assistance of Robert Jenkins and Salvador Macias.

Stanley A. Arbingast
Director

July 1974

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In addition I wish to express my appreciation to Susie Turner and Janè Tonn for their typing assistance and to my wife, Martijna, for her sacrifices while I pursued this project.

Vernon M. Briggs, Jr.

June 1974

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THE MEXICO-UNITED STATES BORDER: PUBLIC POLICY AND CHICANO ECONOMIC WELFARE

Introduction

The political boundaries of a modern nation form the foundation for the study of economic policy making. Borders represent the element that unifies and distinguishes a particular economy. Within the prescribed perimeters, the movement of labor, products, and money and the performance of services are relatively unimpaired. They are uniformly governed by the prevailing internal economic policies of the given nation. At a border, however, a separate battery of economic policies prevails. Border policies are more diverse than those governing internal economic relations. Usually they are designed to impede both the flow of commerce and the movement of people unless it is in the country's self-interest to do otherwise.

Nowhere within the community of nations does a boundary separate two nations with greater economic disparity than that between Mexico and the United States. In 1970 the gross national product for the United States was over $974 billion; for Mexico it was $33 billion. The per capita national income in the United States was approximately $4,300, while in Mexico it was slightly above $500. Fred H. Schmidt, a keen observer of border economic affairs, has written that "neither the per capita gross national product nor the per capita income of any country in the world even comes near the *amount of the difference* in per capita income between the United States and Mexico."[1]

[1] Fred H. Schmidt, "The Current Economic Condition of the Mexican Americans," paper presented at the Conference on Economic and Educational Perspectives of the Mexican American (Aspen, Colorado, August 1972), p. 5. Emphasis in the original.

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Living as neighbors with the reality of these vast differences has led to the implementation of a number of policy measures by both nations. The usual concern about the impact of these policies is focused on the effect of one nation's actions on the welfare of the other. Scant attention is given to the significance of border practices and policies of each nation for its *own* people. This study concerns the border policies and practices of the United States as they affect a significant proportion of the Chicano population who live north of the 1,800-mile border with Mexico. In the southwestern United States, Chicanos have long provided the mainstay of the unskilled and semiskilled labor force in the urban and, especially, the rural sectors. The general thesis, of course, can be extended to all workers in the competitive low-wage sector of the region. Because of the relative proportions involved and the unique affinity between Chicanos and Mexicans, however, the issue is best understood in terms of the impact of U.S. border labor policies on the economic opportunities of Chicanos.

In 1970 the number of Chicano family members in the Southwest who were classified as officially living in poverty exceeded 1.2 million (or 26.8 percent of the estimated Chicano population). In addition, over 83,000 unrelated individuals were living in a poverty status (or 43.2 percent of their total number).[2] Although poverty has long been a way of life for large numbers of Chicanos, the continued existence of such a high magnitude of regional poverty is partly attributable to what can be fairly described as an unofficially sanctioned open border policy of the United States. To the degree that this is the case, economic conditions at the border approach institutionalized poverty, poverty perpetuated by policies within the realm of controllable events.

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[2]U.S. Bureau of the Census, *Census of the Population: 1970*, "Persons of Spanish Surname," Subject Reports PC(2)-1D (Washington, D.C.: Government Printing Office, 1973), p. 81.

Background Considerations

Like any region, the southwestern region of the United States has unique characteristics. The rugged terrain and the dry climate have given rise to a population pattern of scattered oasis communities. Historically the industrial base of the region was built upon highly labor-intensive work in agriculture, ranching, mining, and railroading. Large corporate enterprises have been the rule. To meet their labor needs, these corporate entities have aggressively sought to tap a variety of sources of low-wage, unskilled, and rightless workers.[3]

The first major immigration from Mexico occurred during the period 1909-1930. During this time roughly 750,000 Mexicans were legally admitted to the United States. Any mass migration of people is caused by both "push" and "pull" forces. In this case, the "push" was the mass violence of the Mexican Revolutionary War (1910-1919) and the "pull" was the labor shortage in the Southwest caused by events associated with World War I.

Immigration from Asia had been curtailed earlier by the Chinese Exclusion Act of 1882 and the Gentlemen's Agreement with Japan of 1907. Moreover, the waves of European immigrants ceased with outbreak of World War I and the temporary immigration restrictions imposed by the United States in 1921 which became permanent with the National Origins Act of 1924. Immigrants from Mexico, however, were *excluded* from the coverage of this act. Indeed, legal immigration from Mexico was not numerically restricted until 1968, when Mexicans were included within the quota of 120,000 immigrants per year allowed from all Western Hemisphere nations. Legal immigration

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[3]Julian Samora and Jorge Bustamante, "Mexican Immigration and American Labor Demands," paper presented at the Center for Migration Studies, Brooklyn College (Brooklyn, New York, March 1970). Reprinted in U.S. Congress, Senate Committee on Labor and Public Welfare, *Hearings of the Subcommittee on Migratory Labor*, 91st Congress, 1st and 2nd sessions, pt. 7-B (Washington, D.C.: Government Printing Office, April 15, 1970), pp. 4783-4821.

of Mexicans to the United States since 1900 has totaled about 1.4 million persons.[4]

The tide of Mexican immigrants receded with the onset of the Great Depression. A policy of forced repatriation of many Mexicans who had not officially filed and completed immigration and naturalization papers was initiated.[5] The rationale was that unemployment was high and, with a plentiful supply of Anglos to meet the demand for cheap laborers, the Mexicans were a redundancy. The fact that some of these Mexicans had married American citizens and that some had children born in this country was not considered of consequence by government officials. Policy makers were concerned with political expediency, not principle. Subsequent border policies have continued to reflect this basic theme.

By the 1940s the economic situation had changed markedly. The military requirements of the nation and its related manufacturing needs led to a labor shortage in the agricultural sector. The growers of the Southwest had foreseen these developments prior to the Pearl Harbor attack in 1941. As a result they made two fateful decisions: first, the pool of cheap labor in Mexico was to be tapped to fill the manpower deficit; second, the federal government was to be the vehicle of deliverance.[6]

The Braceros

Although the initial requests of U.S. growers for the establishment of a contract labor program were denied by the federal government in 1941, they were favorably received by mid-1942. Mexico, however, balked at the proposal for a formal intergovernment agreement. The Mexican economy was flourishing; there were fears of Mexican workers' being drafted; there

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[4]Julian Samora, "Mexican Immigration," paper presented at the Conference on Economic and Educational Perspectives of the Mexican American (Aspen, Colorado, August 27, 1972), p. 10, Table 1-A.

[5]*Ibid.*, pp. 11-12.

[6]Ernesto Galarza, *Merchants of Labor: The Mexican Bracero Story* (Charlotte, North Carolina: McNally and Loftin, 1964), p. 45.

were bitter memories of the repatriation drive of the 1930s; and there was knowledge of the discriminatory treatment accorded people of Mexican ancestry throughout the Southwest. The unregulated hiring of Mexican citizens by foreign nations had been prohibited by Article 123 of the Mexican Constitution of 1917.

Lengthy negotiations between the two governments resulted in a formal agreement in August 1942. The Mexican Labor Program, better known as the "bracero program," was launched. Workers were to be afforded numerous protections with respect to housing, transportation, food, medical needs, and wage rates. Initiated through appropriations for P.L. 45, the program was extended by subsequent enactments until 1947.

For the growers the bracero program was a "bonanza."[7] Braceros were limited exclusively to agricultural work. Any bracero who found a job in another industry was subject to immediate deportation. The significance of the program for Chicanos is obvious: the agricultural labor market of the Southwest was removed from competition with the nonagricultural sector. Although braceros were supposed to depress wage rates, the program clearly had that effect.

Initially the program was under the control of the Farm Security Administration, which administered the program according to the letter of the law. In July 1943, however, supervision was shifted to the grower-dominated War Food Administration. Many of the worker protections were no longer enforced. In fact, Mexico banned the braceros from working in Texas in 1943 because of abusive and discriminatory treatment of both Mexicans and Chicanos. Illegal entrants, for whom not even nominal protections were provided, quickly filled the Texas vacuum.

When the agreement ended December 31, 1947, the program was continued informally and was unregulated until 1951. In that year, again under the cloak of war-related labor shortages, the bracero program was formalized into P.L. 78. This time Texas was included. The program continued to function

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[7]Carey McWilliams, *North from Mexico* (New York: Greenwood Press, 1968), p. 267.

until it was terminated by the United States on December 31, 1964.

Although some defense of the program may be offered as a wartime emergency program, a review shows that most of the program's lifespan and most of its participants came during eras of peace (see Table 1). The bracero program, a classic example of how national border policies have adversely affected the native Chicano population, seriously disrupted the labor exchange process in rural labor markets. The relative wages of agricultural workers in the Southwest declined sharply during the program's life. Under such circumstances the supposed domestic labor shortage can only be dismissed as an artificial creation of manmade policies.[8] Of greater significance, however, was the indifference that the federally sanctioned program manifested toward the welfare of Chicanos.[9]

In 1973 the government of Mexico indicated that it wishes to negotiate a new farm labor agreement with the United States.[10] Under the proposed terms Mexican contract workers would be paid wages identical to those of U.S. farm workers. Even under this arrangement, however, the effect could only retard otherwise upward pressures for farm worker wages and benefits while also making it more difficult for farm workers to unionize. The proposal is offered by Mexico as one solution to the escalating problem of illegal entry. Yet the proposal contains no indication of what would prevent Mexican workers not included in the quotas from crossing.

Corresponding to the Mexican proposal, a bill (H.R. 3355) was introduced in the U.S. House of Representatives in 1973 to amend the Agricultural Act of 1949 to permit recruitment of agricultural workers from Mexico. Essentially the bill proposes to reinstitute the old bracero program. The bill, as of mid-1974, remains in the House Committee on Agriculture.

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[8]Vernon M. Briggs, Jr., *Chicanos and Rural Poverty* (Baltimore: Johns Hopkins Press, 1973), pp. 29-30.

[9]Lamar B. Jones, "Mexican American Labor Problems in Texas" (Ph.D. dissertation, The University of Texas, Austin, 1965), p. 5.

[10]"Mexico to Seek Farm Labor Pact," *New York Times*, June 17, 1973.

Table 1

NUMBER OF BRACEROS AND DEPORTED ILLEGAL MEXICAN ENTRANTS, 1942-1973

Year	Braceros	Illegal entrants returned to Mexico
1942	4,203	10,603
1943	52,098	16,154
1944	62,170	39,449
1945	120,000	80,760
1946	82,000	116,320
1947	55,000	214,543
1948	35,345	193,852
1949	107,000	289,400
1950	67,500	469,581
1951	192,000	510,335
1952	197,100	531,719
1953	201,380	839,149
1954	309,033	1,035,282
1955	398,650	165,186
1956	445,197	58,792
1957	436,049	45,640
1958	432,857	45,164
1959	437,643	42,732
1960	315,846	39,750
1961	291,420	39,860
1962	194,978	41,200
1963	186,865	51,230
1964	177,736	41,589
1965	20,286	48,948
1966	8,647	89,683
1967	7,703	107,695
1968	0	142,520
1969	0	189,572
1970	0	265,539
1971	0	348,178
1972	0	430,213
1973	0	609,673

Source: U.S. Department of Labor; U.S. Department of Justice.

Illegal Entrants

Paralleling the bracero years and succeeding them has been the flow of illegal entrants into the labor market of the Southwest. The problem has existed for decades. Unfortunately, illegal entry is regarded largely as a regional issue in the United States despite the epidemic proportions it assumed in the late 1960s and early 1970s (see Table 1). Schmidt wrote in 1972 that

> a succession of recent national administrations have been peculiarly indifferent, even resistant, toward examining, much less changing, a situation that persistently mocks national immigration policies. The scope of the problem can be summed in one statistic: from 1939 through 1969, a period during which 7.4 million persons legally immigrated to the United States *from countries all over the world*, more than 7.4 million Mexican nationals entered the country unlawfully and were apprehended and expatriated to Mexico.[11]

No one knows the actual number of illegal aliens who cross annually into the United States. Figures are available only for those apprehended. It is reliably estimated that for every illegal alien apprehended in the United States, another has gone undetected.[12] The Immigration and Naturalization Service (INS) has, however, estimated the cumulative number of illegal Mexican aliens in the United States in 1973 to be 1.3 million.[13] The precise number could be higher or lower, but the order of magnitude is not in serious question. The commissioner of the INS observed in 1971 that the upward trend in illegal entry "has grown progressively worse" and predicted for the future that "border violations will continue to mount."[14]

Given the economic disparity between the two nations, it is not surprising that thousands of Mexicans annually seek to enter

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[11]Schmidt, "Current Economic Condition of the Mexican Americans," p. 4. Emphasis supplied.

[12]David S. North, *Alien Workers: A Study of the Labor Certification Program* (Washington, D.C.: Trans-Century Corporation, 1971), p. 69.

[13]William Chapman, "Mexican 'Illegals' Now Seek U.S. Cities," *Washington Post*, December 9, 1973.

[14]Michael Mallory, "Human Wave of Mexicans Splashes across Border," *National Observer*, October 16, 1971.

the United States illegally. It is, however, disconcerting that public policy is so tolerant of this hemorrhage of the border, so timid in the application of existing law, and so hesitant to assume a posture of deterrence.

In 1952 the United States initiated actions to stem the flow of illegal entrants. The Immigration and Nationality Act of 1952 made the importation and the harboring of illegal aliens a felony. As a concession to Texas agricultural interests, however, the act contains the famous "Texas proviso." This section states that employment and the related services provided by employers to employees (i.e., transportation, housing, or feeding) do not constitute an illegal act of harboring an illegal alien. The effect of the "proviso" is to make employers largely immune from prosecution if they hire such workers. Even employers whose premises are raided regularly by the INS are rarely prosecuted.

The most important barrier to effective control of illegal entrants is the fact that the act of employment of an illegal alien is not itself illegal. Since an employer incurs no risk, he is free to hire illegal aliens, which encourages the continuation of the flow across the border. Because of the burgeoning dimensions of the issue, extensive public hearings were held by a subcommittee of the Committee on the Judiciary of the U.S. House of Representatives during 1971 and 1972. A bill that would require employers to make a "good faith" effort to determine whether their employees are legal citizens of this country was passed by the House in September 1972 by an overwhelming vote. The proposed legislation contained sanctions against employers who hire illegal aliens, ranging from initial warnings to fines and jail terms for repeat offenses. The bill was not passed by the Senate. A similar bill (H.R. 982) was introduced in the House and subsequently passed in May 1973. As of May 1974 the Senate had still not acted on the bill.

There has been opposition to this fundamentally necessary legislation from some influential Chicano groups. Mindful of the mass deportations of the 1930s and early 1950s, they fear that the proposed law will lead to harassment of Chicano workers. Moreover, they worry that some employers—just to be safe—will discriminate against hiring Chicanos.

Some Chicano spokesmen believe that the legislation portends an era in which American citizens of Mexican origin may be required to carry and to show on request identification cards to prove their citizenship.[15] Other Chicano spokesmen play down these concerns. For instance, Frank Garcia, an organizer in South Texas for the Amalgamated Meat Cutters Union, has observed:

> The Rodino bill doesn't give the employers the power to do anything they aren't already doing. So they ask for identification cards? So what's new about that. I have to carry identification cards because I drive through a checkpoint between here and Laredo. They are going to stop me—but, of course, they won't stop you [i.e., the Anglo interviewer]. We already have to carry ID cards. Maybe they don't in Washington, D.C., but we sure as hell do down here.[16]

These are legitimate fears; however, it should be possible to exercise vigilance to see that such actions do not occur. Moreover, the fact remains that weak laws are bad public policy for all citizens. The economic status of Chicano workers—especially in the Southwest—can only be enhanced by the enactment of effective deterrents to employer hiring of illegal aliens. It is possible to debate the degree of harm that the illegal aliens exert upon Chicano welfare; but it is impossible to demonstrate that these illegal aliens improve Chicano economic opportunities.

One of the difficulties associated with recognition of an illegal alien by an employer is the easy availability of social security cards. In 1966 the INS formally requested that the Social Security Administration (SSA) include a question on its application forms asking "Are you a citizen, yes or no?" If the answer was "no," the application was to be referred to the INS for a formal determination of the immigration status of the

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[15]Chapman, "Mexican 'Illegals' Now Seek U.S. Cities."

[16]*Ibid.* It is a practice of the INS to stop and check passengers in cars at random points several miles from the border to determine the citizenship of the occupants.

individual. The SSA rejected the proposal.[17] It claimed that the social security card is used only for identification and that there is no legal authority for the refusal to issue a card to an applicant who has completed the prescribed form. Commenting bitterly on the incongruity of action between the SSA and the INS, the California Court of Appeals stated in 1970 that "in a continuing display of incredible insularity, one agency of government puts its foot in the door which another agency is striving vainly to close."[18]

In response to mounting criticism of the ease of access to social security cards, amendments to the Social Security Act of 1972 were designed for the first time to tighten the issuing procedures.[19] The secretary of the U.S. Department of Health, Education, and Welfare was directed by the legislation to take affirmative steps to assure that aliens receive social security cards when they are admitted to categories in which they are legally entitled to be employed and to issue such cards to all children when they first enroll in school.

The objective in both instances is to have the social security card issued at a time when applicants are easily identifiable—either when applying for a visa or when entering school. The amendments also grant to the SSA the authority to require applicants for social security cards to furnish evidence of their citizenship, alien status, and true identity.

The ultimate test of the effectiveness of these new provisions, of course, depends upon the degree of enforcement. The earlier impediments to efforts to make the issuance of these cards a reliable device for locating illegally employed aliens have been removed.[20] The impact of these changes, if any, can only

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[17]U.S. Congress, House of Representatives, Committee on the Judiciary, Subcommittee No. 1, *Hearings on Illegal Aliens*, pt. 5 (Washington, D.C.: Government Printing Office, March 22, 1972), p. 1328.

[18]*Diaz v. Kay-Dix Ranch* (1970), as reprinted in House of Representatives, *Hearings on Illegal Aliens*, pt. 1 (Washington, D.C.: Government Printing Office, June 21, 1971), p. 180.

[19]P.L. 92-603, Section 137 (1972).

[20]U.S. Department of Justice, *A Program for Effective and Humane Action on Illegal Mexican Immigrants*, final report of the Special Study Group on Illegal Immigrants from Mexico (Washington, D.C.: U.S. Department of Justice, 1972), p. 23.

be demonstrated in the long run, since they seek to prevent further easy access to the cards but do nothing to reduce the abundant supply currently held.

Over 95 percent of those aliens who are apprehended by the INS are simply returned to Mexico by the most expedient form of transportation at the expense of the federal government. Less than 5 percent of the illegal Mexican nationals are subjected by the INS to formal deportation proceedings that would render a future entry a felony.[21] More numerous prosecutions could serve as a deterrent. Neither Congress nor the President has believed to date that the issue warrants a sufficient increase in the number of hearing officers to raise significantly the level of prosecutions. As a result, those aliens allowed to leave through the voluntary departure system are in no way deterred from returning at will.

If an illegal alien is caught, he is simply returned to his native land; if he is not apprehended, he works at a job that affords him an income higher than his alternatives at home. For the businessman there is no risk of loss. There are only gains from tapping a cheap source of labor that is completely bound to arbitrary terms of employment set by the employer.

The Immigration and Nationality Act of 1952 expressly states that it is national policy to reserve available jobs for the domestic labor force. Referring to this act, the California Court of Appeals decision in 1970 stated that the number of illegal aliens in the Southwest "represents an abject failure of national policy." Moreover, the court observed that the lack of meaningful corrective action "must be ascribed to self-imposed impotence of our national government."[22]

It is the powerless Chicano population of the Southwest who bear the major burden of this "self-imposed impotence" of public policy. The reluctance by government to alter the status quo is best understood in terms of the benefits received by the powerful employer interests of the region.

A more sordid dimension of the issue came to light in mid-1973 as a result of an investigation by the U.S. Department

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[21] House of Representatives, *Hearings on Illegal Aliens*, pt. 5, p. 1315.
[22] *Diaz v. Kay-Dix Ranch*, p. 179.

of Justice. Operation Clean Sweep was initiated by Attorney General Richard Kleindienst in May 1972 to inquire into the workings of the INS in the Southwest. The investigation disclosed that a number of immigration officers along the border engaged in complicity to smuggle alien workers into the United States, the sale of documents necessary to enter the United States, the illegal paroling of alien workers to employers in the United States, and the physical abuse of captured alien workers.[23] One federal inspector understandingly lamented:

> Every year there is a tremendous jump in the number of illegal aliens while those immigration inspectors and border patrolmen haven't had a significant increase in manpower or money in 10 years. It makes it a hell of a lot easier to understand why some of those people standing out there in the sun all day handling all that human traffic eventually decided that honesty was no longer a qualification for the immigration service.[24]

The inquiry is continuing, with all indications that only the tip of the scandal has been scratched to date.

The Commuters

The U.S. border policy governing commuters is unique. David North has aptly observed that "the commuter is this generation's bracero."[25] The commuters are people who live in Mexico but frequently seek employment in the United States. They may or may not be U.S. citizens. Until 1921 no restrictions were placed on immigrants who wished to work in the United States. Aliens were free to be employed with only minor exceptions.

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[23]Denny Walsh, "U.S. Abuses Widespread on Mexico Border," *International Herald-Tribune*, May 28, 1973.

[24]*Ibid.*

[25]David S. North, *The Border Crossers–People Who Live in Mexico and Work in the United States* (Washington, D.C.: Trans-Century Corporation, 1970), p. 72.

In 1921 temporary restrictions on immigration were imposed. These culminated in the adoption of official immigration policy. Although natives of the Western Hemisphere were excluded from the quotas imposed by the act, all people entering the United States were required to be classified as either "immigrants" or "nonimmigrants." "Immigrants" were defined as all entrants except those designated as "nonimmigrants" who are visiting the country temporarily "for business or pleasure."

For a short interval, workers who lived in Mexico but commuted to jobs in the United States were classified as "nonimmigrant visitors" who were free to cross the border "for business." By arbitrary administrative decision of the INS in 1927, however, the status of these people was changed to "immigrants." Subsequently, in 1929, the U.S. Supreme Court upheld the INS decision, with the famous ruling that "employment equals residence" (thereby cleverly avoiding the permanent residency requirement of the immigration statutes).[26]

One category of commuters is popularly called "green carders" (so named for the *original* color of the identification cards they carry). These card holders are classified as immigrants. As such, they can move at will and work anywhere within the United States.

There are, however, several differences between a green carder and other permanent resident immigrants. A green carder is not actually required to reside within the country; he may not be unemployed for more than six months without losing his immigration classification; he may not serve as a strikebreaker; and he cannot count the time he lives outside the United States toward the five years needed to be eligible to apply for citizenship. In reality these differences are not of consequence. The unemployment restriction is not enforced; the anti-strikebreaker rule is so easily circumvented that it is essentially meaningless; and many green carders have no interest in becoming American citizens.

The second group of commuters is known as "white carders" (similarly called because of the original color of their

[26] *Karnuth v. Albro*, 279 U.S. 231 (1929).

border-crossing passes). These people are "legal visitors" or "border crossers" who can stay in the United States for up to seventy-two hours within a radius of twenty-five miles of the border. Presently the cards bear no date indicating when the bearer crosses the border. Until January 1969 the validity of a white card was limited to four years from the date of issuance. Since then the restriction has been removed, so that there is no expiration date. The reason for the change by the INS was that the renewal procedure was too costly.[27] Hence, within the twenty-five-mile border radius there is absolutely no way to know how long a white carder is actually in the country. If a white carder indicates when he crosses the border that he plans to travel beyond the twenty-five-mile limit, a date of entry is stamped on the card. In fact, however, this procedure is frequently circumvented. Once a white carder crosses the border, he simply mails the card back to Mexico and then proceeds to go beyond the twenty-five-mile limit for as long as he wants. If by chance he is apprehended, he simply claims he is an illegal entrant, agrees to a voluntary departure, and is returned to Mexico with no record made of his violation of the law. When he returns to Mexico his white card is waiting for him, so the entire cycle may then be repeated. The white card is among the devices used by illegal entrants to gain entrance to the United States.

Exactly how many green and white carders there are is a mystery. A 1969 study reported that 70,000 workers crossed the southern border daily.[28] Of these, 20,000 were American citizens and 50,000 were green carders. How many additional seasonal green carders there are is unknown. It is estimated that in 1972 there were 3.7 million green carders (of whom 735,018 were Mexicans) in the entire United States.[29] The controversy, however, is not with green carders per se but rather with those

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[27]U.S. Congress, Senate Committee on Labor and Public Welfare, Subcommittee on Migratory Labor, *Hearings on Migrant and Seasonal Farmworker Powerlessness*, 91st Congress, 1st and 2nd sessions, pt. 5-A, pp. 2146-2147.

[28]Anna-Stina Ericson, "The Impact of Commuters on the Mexican-American Border Area," *Monthly Labor Review*, August 1970, p. 18.

[29]House of Representatives, *Hearings on Illegal Aliens*, pt. 5, p. 1321.

who work in the United States and live permanently or seasonally in Mexico. These green carders are often willing to work for wages and under employment conditions that are impossible for a person who must confront the daily cost of living in the United States on a full-time basis. Moreover, there is ample evidence that many commuting green carders do not pay income tax and that they do not register with the Selective Service as required.[30]

As for white carders, the INS reports that over 2.2 million cards were issued in the Southwest region betwen 1960 and 1969.[31] How many of these white carders have abused their visiting privileges by seeking employment is unknown. The fact that the statistics on green and white carders are either vague or completely unknown was labeled "astonishing" by the comprehensive UCLA Mexican-American Study Project conducted in 1970.[32]

In 1952 the secretary of the U.S. Department of Labor was empowered to block the entry of immigrants from Mexico if their presence would endanger prevailing labor standards. The Immigration Act of 1965 significantly increased this power by requiring that immigrants who are job seekers receive a labor certification. As one condition for receipt of a green card, a certification must be made that a labor shortage exists in the occupation for which the immigrant seeks employment and that his presence will not adversely affect prevailing wages and working conditions. The certification procedure was effective July 1, 1968. The certification is made only once—at the time the immigrant makes initial application for entry. The certification procedure, however, has many loopholes. North estimates that only one of every thirteen workers seeking to become immigrants is subject to the certification process.[33]

The current legal status of green carders has come into serious question. The commuter status is not authorized by

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[30]North, *Border Crossers*, p. 205.

[31]Senate, *Hearings on Migrant and Seasonal Farmworker Powerlessness*, pt. 5-A, p. 2145.

[32]Leo Grebler, Joan W. Moore, and Ralph C. Guzman, *The Mexican-American People* (New York: Free Press, 1970), p. 73.

[33]North, *Alien Workers*, pp. 95-96.

statute. The concept has evolved through years of INS administrative interpretations. Sheldon Greene indicates that the prevailing INS regulations limit the reentry rights of a green carder to a person who is "returning to an unrelinquished lawful permanent address."[34] Before 1965 the INS reasoned that any commuter who had been accorded the "privilege of residing permanently" was always entitled to enter the country. The Immigration Act of 1965, however, altered the statutory language under which the INS had allowed virtually unrestricted movement of commuting green carders. The amended language restricted informal entry to "an immigrant lawfully admitted for permanent residence who is returning from a temporary visit abroad." Thus Greene asserts:

> No distortion of the English language could result in a finding that the commuter was entering the United States after a temporary visit abroad to return to his principal, actual dwelling place. Rather, the commuter was simply leaving his foreign home and entering the United States to work.[35]

Greene concludes that since 1965 the commuting green carders "are not merely lacking in statutory authority" but that the practice is "actually prohibited."[36] If this is true, the obvious question is *why* the INS has allowed the practice to continue unabated. Greene theorizes that the complexities associated with terminating the entry privilege to so many thousands of people provide the explanation.[37] Another plausibility is that the INS decided to continue the commuters as a substitute for the terminated bracero program.[38] The green and white cards have become a sub rosa work permit for many thousands of commuting Mexican workers who have no intention of permanently living in the United States.

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[34]Sheldon L. Greene, "Public Agency Distortion of Congressional Will: Federal Policy toward Non-Resident Alien Labor," *George Washington Law Review*, March 1972, p. 442, citing 8 C.F.R. 211.1(b)(1) (1971).
[35]*Ibid.*, p. 443, citing 8 U.S.C. 1101(a)27(B) (1970).
[36]*Ibid.*
[37]*Ibid.*
[38]*Ibid.*

To date, litigation has only added to the confused status of the green card. A suit was filed by two California farm workers in 1969 to bar the entry of commuters under the new language of the act of 1965. The court refused to set aside the accumulated history of the commuter practice, since the new language of the act did not specifically ban commuting.[39] The decision not to terminate the commuter status mentioned what is probably the major factor explaining the perpetuation of this policy charade: the fear that such a ban may have adverse foreign policy consequences.[40] The U.S. Department of State has consistently contended that any interruption in the commuter program would seriously harm relations between Mexico and the United States. Former Secretary of State Dean Rusk testified before Congress that the border towns of the two nations "have grown into single economic communities" and that "a disruption in the life of these communities would do real harm to good neighbor relations in the area."[41]

If it is really the official policy of the United States to consider these border towns as "single economic communities," there are certainly more humane and substantive ways to manifest this policy than by encouraging poor Mexicans to make poor Chicanos even poorer. The sanction given to commuters means that the Chicano population must compete directly with these commuters. The result is that employment opportunities are lost, wages are kept low, union organization efforts are hampered, and seasonal migratory farm labor becomes a prime alternative occupation for many Chicano workers.[42] As a consequence, Schmidt has observed:

> The United States worker who competes with the traffic of workers from Mexico is caught in a situation where he pays a substantial part of

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[39] *Ibid.*, p. 448. The case referred to is *Gooch v. Clark* (1969), Civil No. 49,500 (N.D. Cal. June 24, 1969).

[40] *Ibid.*

[41] U.S. Congress, House of Representatives, Committee on the Judiciary, Subcommittee No. 1, *Study of Population and Immigration Problems*, no. 11 (1963), p. 184. Also see Lamar B. Jones, "Alien Commuters in United States Labor Markets," *International Migration Review*, spring 1970, pp. 83 ff.

[42] Briggs, *Chicanos and Rural Poverty*, p. 40.

what the Secretary of State regards as a form of foreign aid to a neighboring nation.[43]

As an official of the Texas Employment Commissior in Laredo, Texas, lamented in 1972:

> The commuter system is continued largely because of the attitude of the U.S. Department of State which wants good relations with Mexico. Needless to say, this relationship is maintained at a terrible human cost to our citizenry.[44]

There is no sound justification for the perpetuation of the commuter system. If it is desirable to provide foreign aid to the border economies of Mexico, then let it be above the table and let it be developmental assistance in the form of a direct payment of dollars. To justify the commuter system on the basis that it represents a form of foreign aid manifests insensitivity to the value of human life on the U.S. side of the border.

The "Twin Plants" Program

To complete a discussion of the current status of U.S. policies that have a serious detrimental impact on the predominantly Chicano population of the United States, it is necessary to mention the "twin plants" program. Following the termination of the bracero program on December 31, 1964, both the United States and Mexico began a search for methods to assist Mexico in adjusting to the new situation. The population of the Mexican border cities had grown immensely during the life of the program. The burden of the displaced braceros, added to already severe problems of unemployment, underemployment, and poverty, made each of these social maladies more acute.

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[43]Fred H. Schmidt, *Spanish Surnamed American Employment in the Southwest* (Washington, D.C.: U.S. Equal Employment Opportunity Commission, 1970), p. 62.

[44]Personal interview with Bruno Abrego, manager, Laredo, Texas, office, Texas Employment Commission (November 10, 1972).

Mexico responded to the situation with the passage of the Border Industries Program (la Programa de Industrialización Fronterizo) in May 1965. The Mexican government had noted that the tariff codes of the United States allow foreign-based subsidiaries that are 100 percent owned by U.S. firms to assemble products whose parts were originally manufactured within the United States for reentry into the country under special value-added tariff schedules. Essentially the effect of the provisions is to apply the duty (between 7 percent and 15 percent) only to the value added to the assembled products. The assembled products can then be shipped back to the parent firm in the United States for "finishing" and for sale.

Because of the tandem relationship of the involved firms the endeavor is more popularly referred to as the "twin plants" program. Such arrangements are in effect with Taiwan, Hong Kong, South Korea, Haiti, and Puerto Rico. It was felt, however, that the proximity of Mexico to the United States was especially advantageous because of the lower transportation costs.

A number of modifications were required of Mexico's own laws, which had stringent regulations on the operation and taxation of foreign firms within its territory.[45] Hence it was not until June 1966 that the program became operative. A free trade zone, 12.5 miles wide, was established along the entire 1,800-mile length of the United States-Mexico border. In March 1971 the Mexican government abolished the border area limitation of the program and enlarged its scope to include the entire nation.

The continuation of the program, of course, depends entirely upon the permissiveness of the laws of the United States. The relevant sections of the tariff codes are Sections 806.30 and 807.00. The former, enacted in 1953, applies to the assembly of products made of metal components originally manufactured in the United States. The latter provision was adopted in 1963, and it simply gave legal sanction to practices that already existed, whereby a variety of products produced by

[45]Liborio Villalobos Calderón, "Foreign Assembly Industries in Mexico: A Necessary Evil of an Underdeveloped Society," paper presented to the Conference on Economic Relations between Mexico and the United States, Institute of Latin American Studies, The University of Texas at Austin (Austin, April 16-20, 1973), pp. 5-9.

U.S. firms could be exported for assembly and reenter the country if the condition of the parts had not changed.

Duty is assessed only on the value added to the product. The value added under these circumstances is basically nothing more than the wages paid to the workers who do the assembly work. As the wages paid for the unskilled work involved are quite low in relation to the prevailing U.S. wages, there is a strong financial incentive to participate in the endeavor.

In the case of Mexico, the wages of the relevant industries range from one third to one sixth of the comparable wages in the United States.[46] The participating firms from the United States, however, are required to pay 50 percent more than the prevailing legal minimum wage in each Mexican city. For 1970-1971, with the premium added, the average daily wage bill in the Mexican border cities was $4.00 for an eight-hour day (compared to $12.80, the legal minimum wage in the United States for an eight-hour day).[47]

A significant boost to the growth of the "twin plants" program occurred in 1970 when the U.S. Tariff Commission released a special report on the employment impact of Sections 806.30 and 807.00. The report was the result of a special request by President Richard Nixon in August 1969 that the commission conduct the detailed inquiry. The report concluded that the aggregate benefits exceed the aggregate costs and recommended that the provisions remain as they are.[48]

In the wake of the report the number of U.S. firms participating in the program increased sharply. By 1972 there were 345 plants participating in the program, with total

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[46]Susan C. Fouts, "Mexican Border Industrialization: An Analogy and a Comment," paper presented to the Conference on Economic Relations between Mexico and the United States, Institute of Latin American Studies, The University of Texas at Austin (Austin, April 16-20, 1973), p. 9.

[47]*Ibid.*

[48]U.S. Tariff Commission, *Economic Factors Affecting the Use of Items 807.00 and 806.30 of the Tariff Schedules of the United States* (Washington, D.C.: Government Printing Office, September 1970).

employment in excess of 46,000 workers.[49] Many of the participating businesses are among the nation's largest corporations (e.g., Bendix, Honeywell, Lockheed, RCA, Samsonite, and Zenith). It is estimated that in 1972 they collectively produced $400 million worth of goods. Table 2 presents a breakdown of the industrial nature of the participating American firms.

Table 2

ACTIVITIES OF AMERICAN-OWNED BORDER INDUSTRIES IN MEXICO, 1972

Type of firm	Number of firms
Electric, electronics	152
Textiles	76
Metal working	22
Furniture and wood products	20
Leather	12
Plastics	10
Other	53
Total	345

Source: Texas Good Neighbor Commission.

From Mexico's standpoint it is ironic that the "twin plants" program is a contradiction to its own border development strategy. In 1960 Mexico enacted its National Frontier Program (la Programa Nacional Fronterizo, or PRONAF), which sought to diversify the economy of its northern states, as part of an effort to reduce its dependency on the U.S. economy. The "twin plants" program, however, has sharply increased the dependency of Mexico on the United States.

Moreover, the restrictive assembly jobs will not stimulate additional economic activity, since by definition there are no

[49]Texas Good Neighbor Commission, *Texas Migrant Labor: Annual Report 1972* (Austin: Texas Good Neighbor Commission, 1972), pp. 25-26. Also see "Spread of U.S. Plants to Mexico Brings a Boom–And Complaints," *U.S. News and World Report* 72, no. 13 (March 27, 1972), p. 59.

related industries involved. Although the program was allegedly conceived to meet the needs of unemployed males (i.e., the former braceros), the nature of the assembly work is such that between 80 percent and 90 percent of the Mexican employees to date are women between eighteen and twenty-four years of age.[50]

It is easy to understand why Mexico would participate in such a venture—even if it does conflict with its own long-range economic development objectives. There are jobs and foreign exchange to be gained. It is not clear, however, why the United States should encourage such an undertaking through its own tariff policies without offering the slightest form of compensation to its own citizens, whose economic opportunities for human development are retarded by the program.

In many areas along the U.S. side of the border there exist an available labor supply and working conditions that, relative to the rest of the country, should make the region a natural industrial magnet. The fact that the region is instead one of the most economically depressed areas in the nation is proof that something is awry.

The tariff policies that give special preference to products assembled in Mexico are part of the explanation for the perpetuation of this regional poverty. Any possible economic advantage of locating in one of the border communities on the U.S. side is always nullified by the even greater economic advantage of locating on the Mexican side. Thus Chicanos must witness the sacrifice of numerous chances for economic development, industrial diversification, and employment opportunities in their own home region with the official sanction of their own federal government.

Under the Trade Expansion Act of 1962 citizens of the United States who are adversely affected by their own government's trade concessions are eligible for special training and relocation allowances if the U.S. Tariff Commission makes such a determination. To date, the commission has made no such ruling in this case. Thus the "twin plants" arrangement must

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[50]Fouts, "Mexican Border Industrialization," p. 8.

join the lengthy list of policies that stifle opportunities for advancement for many Chicanos.

Concluding Observations

The picture that emerges from the preceding discussion of the border policies of the United States is strikingly clear: it is a portrait of insensitivity to the economic impact of these policies on the low-income population of the border regions of the southwestern United States in general and on many Chicanos in particular. Immigration and border policies are an important explanation for the depressed economic status of the region and the inability of most remedial manpower, education, migrant assistance, public service employment, and economic development programs to rectify the prevailing situation.[51] Obviously there are other contributing factors, such as the existence of labor surpluses, the historic occupational and industrial mix, and the virtual absence of trade union activity. Upon close scrutiny, however, most of these considerations appear to derive from the aforementioned border practices.

When the totality of these separate practices and policies is examined, the pattern of inhumanity is unmistakable. All of the policies and practices are justified either as beneficial to the large corporate interests of the southwestern United States or as desirable in the interest of good foreign relations with Mexico. In none of these justifications is there any consideration for the impact of these endeavors on the Chicano population of the border region. In every instance Chicanos are made worse off by the policies of their own government. There is no consolation in the retort that the gains received by others may counterbalance these losses by Chicanos. Broad averaging of the impact of policies is impossible when human welfare is involved.

There is no reason why there should be a conflict between Chicano welfare and good neighbor relations of the United States and Mexico. If financial assistance is necessary, let the aid take the form of massive, direct cash grants to enable Mexico to

[51] Briggs, *Chicanos and Rural Poverty*, pp. 62-73.

develop its own northern economy. If Mexico does not want such aid, so be it, but it should be clear that a continuation of the existing state of affairs is out of the question.

Illegal entry must be stopped by expanded enforcement, prosecution of offenders, and a sweep of the labor markets to return those already here; the manpower and budget of the Border Patrol and the INS should be sharply increased commensurate with the importance of the apprehension and prosecution tasks they are obligated to perform; criminal penalties should be adopted for U.S. employers who hire illegal entrants; the commuter system should be terminated forthwith, and the tariff provisions that encourage the "twin plants" arrangement should be repealed.

The foundation of prevailing border policies is the impoverishment of thousands of Chicanos. During the course of the extensive hearings held in 1970 by the Subcommittee on Migratory Labor of the U.S. Senate Committee on Labor and Public Welfare, the chairman of the committee—Senator Walter Mondale—observed about the Chicanos who live along the southwestern border region that "their whole pattern of life and work is as bad today as it was 30 years ago."[52] Senator Mondale concluded that a primary explanation for the prevailing situation was "a major hemorrhage" of the Mexico-United States border. The choice confronting those interested in improving the economic status of Chicanos in the Southwest is clear-cut.

One possibility is to continue the present border situation, whereby deterrence is minimal, punishment is scant, and law enforcement is limited. The result will be that the pace of Chicano group economic improvement will continue to be grudgingly slow.

The other alternative is to impose and enforce strong restrictions upon illegal entrants and commuting workers as well as employers who hire illegal workers. It is likely that this latter course can provide a climate for more rapid economic progress. With the high incidence of low-income families and of unskilled and semiskilled blue-collar workers that characterizes present

[52]Senate, *Hearings on Migrant and Seasonal Farmworker Powerlessness*, pt. 7-B, p. 4547.

Chicano economic patterns, it makes no sense to perpetuate what is tantamount to an open border, through which additional supplies of competing workers can flow at will. A tight border policy is an essential component of any serious public policy strategy to improve Chicano economic welfare.

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